

AMENDED IN SENATE JUNE 11, 2014

AMENDED IN ASSEMBLY MARCH 27, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2735

Introduced by Committee on Insurance (Assembly Members Perea (Chair), Bradford, Ian Calderon, Cooley, Dababneh, Frazier, Gonzalez, V. Manuel Pérez, and Wieckowski)

February 25, 2014

An act to amend Sections 10083 and 10086.1 of the Insurance Code, relating to earthquake insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, as amended, Committee on Insurance. Earthquake insurance.

Existing law provides that a policy of residential property insurance may not be issued or delivered or, under certain circumstances, initially renewed by an insurer unless the named insured is offered coverage for loss or damage caused by an earthquake. The required offer of earthquake coverage is authorized to be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If an offer of earthquake coverage is not accepted, insurers are required to subsequently offer earthquake coverage to residential policyholders on an every other year basis.

This bill would provide that if an insurer offers specified insurance policies providing earthquake coverage that is greater than the minimum requirements, and an offer of one of those policies has been accepted, no further or other offer of earthquake coverage meeting the minimum earthquake coverage requirements is required at a renewal, if the insurer

~~has offered a renewal of that policy and has provided written notice with that renewal regarding additional earthquake coverage that is available.~~ *issues a policy with earthquake coverage that does not meet the minimum coverage requirements, no further or other offer of earthquake coverage meeting the minimum coverage requirements and no further or other notice of noncoverage is required by the insurer if a renewal of that policy is offered, and a written notice is provided with that renewal regarding additional earthquake coverage that is available.* The bill would require the form of that written notice to be approved by the Insurance Commissioner, as specified. The bill would also make additional conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10083 of the Insurance Code, as amended
2 by Section 12 of Chapter 369 of the Statutes of 2013, is amended
3 to read:

4 10083. (a) The offer of coverage required by Section 10081
5 may be made prior to, concurrent with, or within 60 days following
6 the issuance or renewal of a residential property insurance policy.
7 If the offer of coverage is mailed to the named insured or applicant,
8 it shall be mailed to the mailing address shown on the policy of
9 residential property insurance or on the application. The offer may
10 be made electronically pursuant to Section 38.5. The offer of
11 earthquake coverage shall contain the following language in at
12 least 10-point boldface type:

13
14 YOUR POLICY DOES NOT PROVIDE COVERAGE
15 AGAINST THE PERIL OF EARTHQUAKE.

16 CALIFORNIA LAW REQUIRES THAT EARTHQUAKE
17 COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

18 WARNING: THESE COVERAGES MAY DIFFER
19 SUBSTANTIALLY FROM AND PROVIDE LESS
20 PROTECTION THAN THE COVERAGE PROVIDED BY YOUR
21 HOMEOWNERS' INSURANCE POLICY. THERE ARE
22 EXCLUSIONS AND LIMITATIONS SUCH AS
23 OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES,
24 AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM

1 CONTAINS ONLY A GENERAL DESCRIPTION OF
2 COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE
3 INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS
4 OF YOUR POLICY WILL DETERMINE WHETHER A
5 PARTICULAR LOSS IS COVERED AND, IF SO, THE
6 AMOUNT PAYABLE.

7 THE COVERAGE, SUBJECT TO POLICY PROVISIONS,
8 MAY BE PURCHASED AT ADDITIONAL COST ON THE
9 FOLLOWING TERMS:

10 (A) AMOUNT OF DWELLING COVERAGE: _____

11 (B) APPLICABLE DEDUCTIBLE: _____ IF YOUR LOSS IS
12 BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY
13 PAYMENT FROM YOUR COVERAGE.

14 YOUR INSURANCE COMPANY OR AGENT WILL
15 PROVIDE WRITTEN NOTICE AS TO HOW THE
16 DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR
17 COVERAGE, THE INSURED VALUE OF YOUR COVERAGE,
18 OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

19 (C) CONTENTS COVERAGE: _____

20 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE
21 FOR THE DWELLING, YOU WILL NOT RECEIVE ANY
22 PAYMENT FOR THIS COVERAGE.

23 YOUR INSURANCE COMPANY OR AGENT WILL
24 PROVIDE WRITTEN NOTICE AS TO HOW THE
25 DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE
26 PURSUANT TO THIS COVERAGE.

27 (D) ADDITIONAL LIVING EXPENSES: _____

28 (E) RATE OR PREMIUM: _____

29 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
30 COVERAGE WITHIN 30 DAYS FROM THE DATE OF
31 MAILING OF THIS NOTICE OR IT SHALL BE
32 CONCLUSIVELY PRESUMED THAT YOU HAVE NOT
33 ACCEPTED THIS OFFER.

34 THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY
35 YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.
36

37 (b) When the insurer, agent, or broker establishes delivery of
38 the disclosure form by obtaining the signature of the applicant or
39 insured, or when an insurer, agent, or broker provides the applicant
40 with the disclosure form and the applicant does not return a signed

1 acknowledgment of receipt within 60 days of the date it was
2 provided, there shall be a conclusive presumption that the insurer,
3 agent, or broker has complied with the disclosure requirements of
4 this section.

5 (c) The offer may contain additional provisions not in conflict
6 with or in derogation of this section.

7 (d) The commissioner may only approve modifications to the
8 language prescribed in subdivision (a) if all of the following
9 conditions are met:

10 (1) The modifications are not in conflict with or in derogation
11 of any provision of this section or Section 10089.

12 (2) The modifications are necessary to ensure that the disclosure
13 statement accurately reflects the coverage actually provided by
14 the policy being offered.

15 (3) The modifications are strictly limited to necessary changes
16 so that the modified disclosure statement is otherwise identical to
17 the disclosure statement prescribed in this section.

18 (e) Use of the language prescribed by this section, or modified
19 language approved pursuant to subdivision (d), shall constitute
20 compliance with the requirements of Section 10081 by an insurer
21 subject thereto.

22 (f) ~~(1) If the insurer offers policies providing earthquake~~
23 ~~coverage, other than the coverage an insurer issues a policy with~~
24 ~~earthquake coverage that does not meet the minimum coverage~~
25 ~~requirements specified in subdivisions (a) and (b) of Section 10089,~~
26 ~~pursuant to a rate application approved by the commissioner in~~
27 ~~accordance with subdivision (c) of Section 10089, and an offer of~~
28 ~~one of those policies has been accepted, no further or other offer~~
29 ~~of earthquake coverage meeting the minimum coverage~~
30 ~~requirements is required at a renewal if the insurer has offered a~~
31 ~~renewal of that policy and has provided written notice with that~~
32 ~~renewal regarding additional earthquake coverage that is available.~~
33 ~~and no further or other notice of noncoverage is required by the~~
34 ~~insurer if both of the following apply:~~

35 (A) *A renewal of that policy is offered.*

36 (B) *A written notice is provided with that renewal regarding*
37 *additional earthquake coverage that is available.*

38 (2) The form of the written notice in paragraph (1) shall be filed
39 with the commissioner at least 30 days before its first use. The
40 form shall not be used if the commissioner disapproves the form

1 of the written notice within that period for being misleading or
2 incomplete.

3 (g) This section shall remain in effect only until January 1, 2019,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2019, deletes or extends that date.

6 SEC. 2. Section 10083 of the Insurance Code, as added by
7 Section 13 of Chapter 369 of the Statutes of 2013, is amended to
8 read:

9 10083. (a) The offer of coverage required by Section 10081
10 may be made prior to, concurrent with, or within 60 days following
11 the issuance or renewal of a residential property insurance policy.
12 If the offer of coverage is mailed to the named insured or applicant,
13 it shall be mailed to the mailing address shown on the policy of
14 residential property insurance or on the application. The offer of
15 earthquake coverage shall contain the following language in at
16 least 10-point boldface type:

17
18 YOUR POLICY DOES NOT PROVIDE COVERAGE
19 AGAINST THE PERIL OF EARTHQUAKE.

20 CALIFORNIA LAW REQUIRES THAT EARTHQUAKE
21 COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

22 WARNING: THESE COVERAGES MAY DIFFER
23 SUBSTANTIALLY FROM AND PROVIDE LESS
24 PROTECTION THAN THE COVERAGE PROVIDED BY YOUR
25 HOMEOWNERS' INSURANCE POLICY. THERE ARE
26 EXCLUSIONS AND LIMITATIONS SUCH AS
27 OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES,
28 AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM
29 CONTAINS ONLY A GENERAL DESCRIPTION OF
30 COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE
31 INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS
32 OF YOUR POLICY WILL DETERMINE WHETHER A
33 PARTICULAR LOSS IS COVERED AND, IF SO, THE
34 AMOUNT PAYABLE.

35 THE COVERAGE, SUBJECT TO POLICY PROVISIONS,
36 MAY BE PURCHASED AT ADDITIONAL COST ON THE
37 FOLLOWING TERMS:

38 (A) AMOUNT OF DWELLING COVERAGE: _____

(B) APPLICABLE DEDUCTIBLE: ____ IF YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY PAYMENT FROM YOUR COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR COVERAGE, THE INSURED VALUE OF YOUR COVERAGE, OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

(C) CONTENTS COVERAGE: ____

IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE FOR THE DWELLING, YOU WILL NOT RECEIVE ANY PAYMENT FOR THIS COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE PURSUANT TO THIS COVERAGE.

(D) ADDITIONAL LIVING EXPENSES: ____

(E) RATE OR PREMIUM: ____

YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS NOTICE OR IT SHALL BE CONCLUSIVELY PRESUMED THAT YOU HAVE NOT ACCEPTED THIS OFFER.

THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

(b) When the insurer, agent, or broker establishes delivery of the disclosure form by obtaining the signature of the applicant or insured, or when an insurer, agent, or broker provides the applicant with the disclosure form and the applicant does not return a signed acknowledgment of receipt within 60 days of the date it was provided, there shall be a conclusive presumption that the insurer, agent, or broker has complied with the disclosure requirements of this section.

(c) The offer may contain additional provisions not in conflict with or in derogation of this section.

(d) The commissioner may only approve modifications to the language prescribed in subdivision (a) if all of the following conditions are met:

1 (1) The modifications are not in conflict with or in derogation
2 of any provision of this section or Section 10089.

3 (2) The modifications are necessary to ensure that the disclosure
4 statement accurately reflects the coverage actually provided by
5 the policy being offered.

6 (3) The modifications are strictly limited to necessary changes
7 so that the modified disclosure statement is otherwise identical to
8 the disclosure statement prescribed in this section.

9 (e) Use of the language prescribed by this section, or modified
10 language approved pursuant to subdivision (d), shall constitute
11 compliance with the requirements of Section 10081 by an insurer
12 subject thereto.

13 ~~(f) (1) If the insurer offers policies providing earthquake~~
14 ~~coverage, other than the coverage an insurer issues a policy with~~
15 ~~earthquake coverage that does not meet the minimum coverage~~
16 ~~requirements specified in subdivisions (a) and (b) of Section 10089,~~
17 ~~pursuant to a rate application approved by the commissioner in~~
18 ~~accordance with subdivision (c) of Section 10089, and an offer of~~
19 ~~one of those policies has been accepted, no further or other offer~~
20 ~~of earthquake coverage meeting the minimum coverage~~
21 ~~requirements is required at a renewal if the insurer has offered a~~
22 ~~renewal of that policy and has provided written notice with that~~
23 ~~renewal regarding additional earthquake coverage that is available.~~
24 ~~and no further or other notice of noncoverage is required by the~~
25 ~~insurer if both of the following apply:~~

26 (A) A renewal of that policy is offered.

27 (B) A written notice is provided with that renewal regarding
28 additional earthquake coverage that is available.

29 (2) The form of the written notice in paragraph (1) shall be filed
30 with the commissioner at least 30 days before its first use. The
31 form shall not be used if the commissioner disapproves the form
32 of the written notice within that period for being misleading or
33 incomplete.

34 (g) This section shall become operative on January 1, 2019.

35 SEC. 3. Section 10086.1 of the Insurance Code is amended to
36 read:

37 10086.1. (a) Where the offer of earthquake coverage has not
38 been accepted, the insurer shall notify the named insured that the
39 policy does not provide that coverage. After the offer on an every
40 other year basis, the notice of noncoverage shall be provided prior

1 to or concurrent with the renewal of the policy of residential
2 property insurance. This section shall not affect any other
3 provisions of this chapter nor shall it affect coverage under the
4 policy of residential property insurance.

5 ~~(b) (1) If the insurer offers policies providing earthquake~~
6 ~~coverage, other than the coverage specified in subdivisions (a) and~~
7 ~~(b) of Section 10089, pursuant to a rate application approved by~~
8 ~~the commissioner in accordance with subdivision (c) of Section~~
9 ~~10089, and an offer of one of those policies has been accepted, no~~
10 ~~further or other offer of earthquake coverage meeting the minimum~~
11 ~~coverage requirements is required at a renewal if the insurer has~~
12 ~~offered a renewal of that policy and has provided written notice~~
13 ~~with that renewal regarding additional earthquake coverage that~~
14 ~~is available.~~

15 ~~(2) The form of the written notice in paragraph (1) shall be filed~~
16 ~~with the commissioner at least 30 days before its first use. The~~
17 ~~form shall not be used if the commissioner disapproves the form~~
18 ~~of the written notice within that period for being misleading or~~
19 ~~incomplete.~~

20 *(b) No further or other notice of noncoverage is required*
21 *pursuant to subdivision (a) for policies subject to subdivision (f)*
22 *of Section 10083, and the insurer has complied with the conditions*
23 *of subdivision (f) of Section 10083.*